

In re Patent Application of:
GOLDSTEIN
Serial No. 10/060,497
Filing Date: JANUARY 30, 2002

REMARKS

Applicant wishes to thank the Examiner for the thorough examination of the present application. Claims 1-8, 11-15 and 18-25 were rejected over Theobold (U.S. Patent No. 6,525,697), and Claims 10 and 17 were rejected over Theobold in view of Vail et al. (U.S. Patent No. 6,522,294). Submitted herewith is a declaration by Applicant establishing his reduction to practice of the invention as described and claimed in the above-identified patent application prior to the effective date of Theobold (i.e., July 11, 2001).

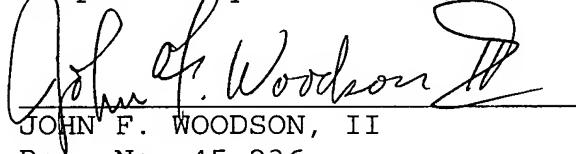
More particularly, the attached declaration shows that the invention was reduced to a tangible form, namely a computer simulation thereof, prior to the effective date. The simulation results accompanying the declaration demonstrate that the invention operated in accordance with its intended purpose, i.e., for reducing occurrences of grating and/or high gain side lobes (see, e.g., page 2 of the originally filed specification), and that the Applicant fully appreciated his invention. Accordingly, given the high degree of predictability associated with such antenna array simulations, the computer simulation referenced in the accompanying declaration constitutes an actual reduction to practice. As one court has noted, "all fields of technology have become so reliant on computer technology to forecast, as well as verify, operations of highly sophisticated equipment that there is no valid basis for refusing to accept computer simulations as the full legal equivalent of an 'actual' reduction to practice."

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McDonnell Douglass Corp. v. U.S., 1980 Ct. Cl. LEXIS 1259, 18
(U.S. Ct. Cl. 1980).

Accordingly, it is respectfully submitted that Theobold is no longer prior art, and all of the claims are thus patentable. Applicants respectfully request that a Notice of Allowance be issued in due course. Should any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,



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